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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,484	07/15/2003	Ian Bennett	MESS 2770	9076

7812 7590 02/17/2005

SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
SUITE 104
PORTLAND, OR 97229

EXAMINER

CHIESA, RICHARD L

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,484

Applicant(s)

BENNETT, IAN

Examiner

Richard L. Chiesa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The preliminary amendment filed on July 15, 2003 has been entered.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. Figure 1 should apparently be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Specification

4. The abstract of the disclosure is objected to for the following reasons: (A) The reference numerals are not enclosed within parentheses. (B) The expression "Figure 3" below the abstract should be deleted. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to for the following reasons: (A) It would appear that the word "centripetal" used throughout the specification and abstract is incorrect and should perhaps be changed to --centrifugal--. This is because the specification describes the impurities as being deflected radially outwards which would indicate a centrifugal action instead of a centripetal action which is radially inward. (B) The word --a-- should apparently be inserted between "by" and "sharp" in the fifth line on page 4. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are ambiguous because it would appear that the word "centripetal" (claim 1, line 5) should be changed to --centrifugal-- since a radially outward force is recited.

Claim Rejections - 35 USC § 102/103

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either one of Hemsworth or Wisler. Each one of Hemsworth (note Figures 1-5, ref. num. 18, 19, 24, 74, col. 2, line 56 to col. 4, line 2, and col. 4, lines 62-68) and Wisler (note Figures 1-5, ref. num. 18, 19, 24, 40, col. 2, line 50 to col. 3, line 64, and col. 4, lines 50-56) shows a rotary machine with rotor blades, stator blades, and a radially stepped stator guide surface having grooves which may extend only partly around the stator circumference as claimed (35 USC 102b). It would appear that both Wisler and Hemsworth may not explicitly disclose that impurities in the gas stream are directed onto the guide surface. However, each one of Hemsworth (note col. 2, lines 15-32) and Wisler (col. 2, lines 15-28) discloses that the stepped stator guide surface separates the outer fluid flow from the inner fluid flow and consequently it is inherent or at least would have been readily obvious to one of ordinary skill in the art (35 USC 103a) that any impurities present in the gas stream will be thrown against the guide surface.

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10. Claims 1-4 are also rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Hemsworth or Wisler in view of Teshima et al. Each one of Hemsworth and Wisler, as described above in paragraph 9, discloses a rotary machine substantially as claimed with the possible exception of an explicit statement that impurities are thrown against the stator guide surface. In any case, Teshima et al (note Figure 1) teach the well-known use of directing radially outwards any dust or other impurities in a gas stream onto the stator guide surface 4 of a rotary machine 1 for the purpose of ensuring commercial availability in dusty environments (note page 1, lines 5-26, and page 3, lines 6-34). Therefore, it would have been obvious to one having ordinary skill in the art to direct radially outward any impurities in the gas stream onto the stator guide surface of either one of the Hemsworth or Wisler rotary machines in order to enhance operation in a dusty environment as taught by Teshima et al.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These references have been cited as art of interest to show other rotary machines.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Chiesa whose telephone number is (571) 272-1154.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane S. Smith, can be reached at (571) 272-1166.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is (571) 272-0987.

Facsimile correspondence must be transmitted through (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L. Chiesa
February 16, 2005

Richard L. Chiesa

**RICHARD L. CHIESA
PRIMARY EXAMINER
ART UNIT 1724**

Feb. 16, 2005